

REMARKS/ARGUMENTS

Favorable reconsideration of the present application is respectfully requested.

Applicant acknowledges the restriction requirement that remains in place directed to elected Claims 1-34 and non-elected Claims 35-104. Applicant has herein canceled all of Claims 1-104, and has replaced these with new Claims 105-117, all of which are directed to a composition for producing colored synthetic fiber having improved color strength and dimensional stability. Original Claims 1-34 were also directed to an inventive composition, therefore the newly-presented claims comport with the election for prosecution previously made by Applicant. This change in the claims further removes the need for any restriction requirement, and such requirement should be withdrawn.

Claims 1-34 were initially rejected under 35 USC §102(e) as being anticipated by the Gallucci et al. patent (U.S. 6,495,079). Applicant believes that Claims 105-117 as now presented clearly patentably define the invention over the cited Gallucci et al. patent.

New independent Claim 105 sets forth a composition for producing colored synthetic fiber having at least three components plus a colorant system. The three components in this claim are a fiber-forming polyamide, at least one unsulfonated thermoplastic polyester, and at least one metal sulfonate polyester compatibiliser additive. As set forth in this claim, the unsulfonated thermoplastic polyester is present in an amount between about 15% and about 35% by weight, relative to the total weight of the composition, and the polyester forms a dispersed, non-continuous, minor phase in a matrix of the fiber-forming polyamide.

The Gallucci et al. patent is directed to what can be described as a two component fiber plus a colorant system. In Gallucci, the fiber is described as being

either a polyamide or a polyester, and a sulfonated PBT (polyester) is added thereto, which results in an improved color strength relative to prior art fibers formed in a melt pigmentation or solution dyeing process. The compositions in the Gallucci patent do not include a non-sulfonated thermoplastic polyester component. As such, the Gallucci patent does not disclose each and every feature of the invention as now set forth in Claims 105-117.

A rejection based upon anticipation (35 USC §102) required that the cited reference identically disclose each and every element or limitation set forth in a claim under examination. As noted, the Gallucci patent does not disclose each and every feature of new Claim 105, and Claims 106-117 depending therefrom. Accordingly, the rejection of Claims 1-34 under 35 USC §102(e), as being anticipated by Gallucci, does not apply to new Claim 105-117. Reconsideration and withdrawal of that rejection is therefore respectfully requested.

The Gallucci patent further does not render obvious the invention as now set forth in Claims 105-117. The present invention is directed to providing a composition for producing fibers made of a polymer blend of a polyamide and at least one non-sulfonated polyester. The Gallucci patent, on the other hand, contemplates only the use of either polyamide or polyester, but not a blend of the two polymers. The sulfonated PBT that is added to either the polyamide or polyester is somewhat analogous to the claimed compatibiliser additive, however, when added, the fiber is essentially a two component system (with the further addition of a colorant system), whereas the claimed composition is effectively a three component system (with the further addition of a colorant system).

As noted in the specification, the blended polyamide/polyester fibers containing a metal sulfonate polyester compatibiliser additive and a colorant system

produce a fiber that has improved color strength as well as dimensional stability. The Gallucci patent does not disclose or suggest a composition that has, as its basic makeup, a polyamide/polyester blend, to which a sulfonated polyester additive is introduced.

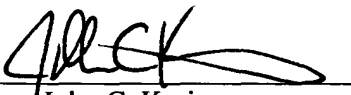
The present specification evidences the unexpected and surprising improvements in color strength and dimensional stability that are attained by fibers produced from compositions according to the claims as currently presented. As such, it is believed that no *prima facie* case of obviousness could be established with respect to the claims as now set forth. The claims are thus believed to be patentable over the Gallucci et al. patent.

Applicant respectfully requests that the rejection of Claims 1-34, as it may be considered to relate to new claims 105-117, be withdrawn.

All claims as currently presented are believed to be allowable over the cited Gallucci patent, and are, in all other respects, believed to be in condition for allowance. Reconsideration and withdrawal of all outstanding rejections is respectfully requested. Passage of the application to issue at an early date is also earnestly solicited.

Respectfully submitted,

MILES & STOCKBRIDGE P.C.

By: 
John C. Kerins
Reg. No. 32,421

1751 Pinnacle Drive, Suite 500
McLean, Virginia 22102-3833
Telephone: (703) 610-8649
#9198484v1